

Rockport Board of Appeals  
September 30, 2014  
7:30 P.M.  
Rockport Public Library  
The Brenner Room  
17 School Street, Rockport, MA

- 1) Call to order at 7:30 P.M. Members present Alan Battistelli (Chairing), Tacy D. San Antonio, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Joyce Fossa, Charles W. Christopher, John N. Rees and Michael Bace.
- 2) Hearing of Rachel Daigle for a special permit and/or variance to change the use from an office space to a full service beauty salon at property owned by GGG Main St. LLC at 124 Main Street, Rockport.
  - a) Opened 7:33P.M. Closed 7:37 P.M.
  - b) Members of the Board sitting are Alan Battistelli (Presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Lars-Erik Wiberg.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) GGG Main Street LLC. Represented the petitioner.
    - i) The salon will have handicap access off of Bluegate lane.
    - ii) It will have a separate bathroom and a second egress through the utility room.
    - iii) Rachel Daigle 6 Lamb Heights Road stated that there will be 2 chairs.
- 3) Approval of Minutes
  - a) Peter Bergholtz moved to approve the August 26, 2014 minutes as presented.
    - i) John N. Rees seconded.
    - ii) Motion passed unanimously with Alan Battistelli, Tacy D. San Antonio, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Joyce Fossa, Charles W. Christopher, John N. Rees and Michael Bace voting.
  - b) Charles W. Christopher moved to accept the September 11, 2014 Zoning Administrator minutes as presented.
    - i) Lars-Erik Wiberg seconded.
    - ii) Motion passed unanimously with Alan Battistelli, Tacy D. San Antonio, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Joyce Fossa, Charles W. Christopher, John N. Rees and Michael Bace voting.
- 4) Hearing of Richard M. and Kathleen Gaige for a special permit and/or a variance to construct a 200 square foot "Four-Season room, to extend the current foyer by 4 feet, to add a 40 square foot addition on the rear of the building, to raise the roof by 3 feet, and to construct a shed dormer on the north side and a gable dormer on the south side on an existing non-conforming residence at 7B Caleb's Lane, Rockport.
  - a) Opened 7:40 P.M. Closed 8:03 P.M.
  - b) Members of the Board sitting are Alan Battistelli (Presiding), John N. Rees, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Chris Vance of Vance Williams Architects, 1 Cherry Street, Wenham, represented the petitioner.
    - i) Asking for Special Permit for 2 nonconforming issues. This is part of the Old Garden Condominium where 4 of the 5 units are year round residence. It is about 3,000 square feet.
    - ii) Rear side setback should be 10 feet and it is presently about 6 feet 8 inches. South side is close to the setback.
    - iii) They wish to:
      - (1) Extend the foyer and fill in the northwest corner of the house.
      - (2) Construct a 4 season sunroom where the deck is now located.

- (3) Increase the ridgeline for a second story master bedroom.
- (4) Add a shed dormer on the north side and a gable dormer on the south side which meets the requirements of the Zoning Bylaw.
- (5) Building coverage will be 44% which is an increase of 1%.
- iv) Michael Bace asked if the setback on the sunroom side is correct and was told yes as it is part of the common condo space.
- e) Audience
  - i) Alison Mueller of 7 Marbee Road is concerned about
    - (1) Drainage.
    - (2) Privacy as it overlooks her property.
    - (3) Petitioners reply is no increase in drainage as the roofline is almost the same and only a slight increase from the sunroom side.
  - ii) Mr. Gaige of 7B Caleb's Lane stated that there is a catch basin at the lowest point that flows to the Town storm drain.
  - iii) Chris Vance stated that there are safety issues with some of the trees but the electric company is coming to fix the problems.
- 5) Hearing of James F. and Margaret M. Foster for a special permit and/or variance to construct a shed dormer on the north side of the building and to expand the existing dormer on the south side of the building on the existing non-conforming residence at 95A Granite Street, Rockport.
  - a) Opened 8:04 P.M. Continued.
  - b) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Tacy San Antonio, Joyce Fossa and Frederick Frithsen.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) James Foster of 95A Granite Street is the owner of the property. He wishes to correct some problems with the 1850's house.
    - i) A shed dormer is needed as presently when you go up the stairs you hit your head so he proposes to extend the present dormer.
    - ii) The basement needs to be fixed as it has severe moisture problem.
    - iii) There will be no expansion of the footprint.
  - e) Audience
    - i) Toby Arsenian of 95 Granite Street
      - (1) Petitioner bought a small house on a small lot and now he wants it to be a large home with an ocean view.
      - (2) If project goes forward the owners will definitely not be able to cut any trees on my property.
      - (3) Conforming to nonconforming needs a Variance. Nonconformity increase needs a Special Permit
      - (4) It is not 9 feet from the setback on the north side. I measured about 6 feet.
      - (5) Asked the Board to check the measured setback.
      - (6) Tacy San Antonio asked the petitioner for the site plan that he used to set his plans.
      - (7) Toby Arsenian again asked that the Board take its own measurements and that the petitioner had no permission to place anything on his property
      - (8) Tacy San Antonio moved that the Board continue the hearing to the October meeting. Alan Battistelli seconded and it passed unanimously with Alan Battistelli (presiding), Peter Bergholtz, Tacy San Antonio, Joyce Fossa and Frederick Frithsen voting.
    - ii) Sandy Jacques of 93 Granite Street asked how relevant is the measurement of nonconformity. Alan Battistelli replied that it is important as it cannot be detrimental to the neighborhood.

- f) The Board members will make a site visit to the property on Saturday October 4, 2014 between the hours of 9-12:00.
- 6) Hearing of William Merry for a variance and/or special permit to construct a 24 foot by 26 foot 6 inch garage along with a 20 foot 3 inch by 20 foot addition connecting the garage to the existing non-conforming residence at 13 Laurel Acres Road, Rockport.
  - a) Opened 8:25 P.M. Closed 8:45 P.M.
  - b) Members of the Board sitting are Alan Battistelli (presiding), Charles W. Christopher, John N. Rees, Joyce Fossa and Michael Bace.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Robert Gulla, Architect Gloucester MA, represented the petitioner.
    - i) The plot includes a no build zone.
    - ii) The proposal is for an attached garage with a connector bridge over the no build zone.
    - iii) The right side needs a Variance.
    - iv) The hardships are:
      - (1) Unique topography, soil and shape.
      - (2) Lack of storage as there is no attic or basement.
      - (3) Other houses in the area have garages.
  - e) Board asked if the structure itself could be changed to add storage.
  - f) Michael Bace feels that some other solution can be found for lack of storage besides a garage.
  - g) The second floor of the garage could be living space.
  - h) Audience
    - i) Francis Harrington of 57 Thatcher Road voiced agreement with this request.
    - ii) Linda Fifield of 6 Laurel Acres is concerned with the tight septic system and the retaining wall be maintained.
    - iii) Robert Gulla said that the retaining wall will be maintained.
  - i) Michael Bace remarked that if the garage was smaller and didn't increase into the setback a Variance wouldn't be required.
  - j) Charles W. Christopher asked if the garage would have a basement and was answered that it would be on a slab.
- 7) Hearing of Sprint Spectrum L.P. for a special permit and/or variance to install 3 antennas, 3 remote radio heads and associated cabling on property owned by the Town of Rockport at 38 Thatcher Road, Rockport.
  - a) Opened 8:45 P.M. Closed 8:48 P.M.
  - b) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Lars-Erik Wiberg.
  - c) Materials presented: general plan, modification plans and photographs.
  - d) Petitioner represented by Timothy Greene of Terrasearch, 157 Riverside Drive Norwell MA.
    - i) Have an existing facility and plan to add antenna count to 6.
    - ii) Rockport Department of Public Works has approved the project.
  - e) Peter Bergholtz asked if any more ground space would be used and the answer was no.
- 8) Hearing of Sprint Spectrum L.P. for a special permit and/or variance to install 3 antennas, 3 remote radio heads and associated cabling on the monopole on property owned by DMJ Realty Trust at 63 Johnson Road, Rockport.
  - a) Opened 8:48 P.M. Closed 8:55 P.M.
  - b) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Frederick Frithsen.
  - c) Materials presented: general plan, modification plans and photographs.
  - d) Petitioner represented by Timothy Greene of Terrasearch, 157 Riverside Drive Norwell MA.

- i) The plan is to modify the facility slightly by adding 3 antennas where they previously removed 12 antennas.
  - ii) Platform is with 6 antennas and extra mounts for future expansion.
  - iii) It will take a day or two to accomplish.
  - iv) The 2012 legislation was passed so this really cannot be denied but a hearing can be required.
- 9) Hearing of Michael M. Krueger for a special permit and/or variance to construct a one story addition and a dormer all on the southwest side of an existing non-conforming garage at 79 Marmion Way, Rockport.
  - a) Opened 8:55 P.M. Closed 9:02 P.M.
  - b) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Joyce Fossa, Frederick Frithsen and Michael Bace.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Michael Krueger 4 Dean Road is potential buyer of the property.
    - i) Wants to make the existing garage symmetrical.
    - ii) A small addition towards the street and an added dormer.
  - e) Audience
    - i) Jim Cataldo of 75 Marmion Way supports the request.
    - ii) George Kauss of 9 Baybridge Lane supports the request.
- 10) Hearing of Mary E. Sullivan at 3 King Street, Rockport.
  - a) Opened 9:03 P.M. Closed 9:14 P.M.
  - b) Members of the Board sitting are Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, John N. Rees and Frederick Frithsen.
  - c) Materials presented: general plan, site plan, floor plan, elevations and photographs.
  - d) Robert Gulla 593 Essex Avenue Gloucester represented the petitioner.
    - i) The previously submitted plans have been modified so that a Variance is no longer required.
    - ii) It is a licensed lodging house.
    - iii) Petitioner has fixed 4 items that the Board asked to be changed at the last meeting.
  - e) Bill wanted to talk about the measurements of bottom level and check % of space on each floor. He was satisfied with the figures.
  - f) A letter in support of the petition was submitted to the Board by Michael Welcome at 1 King Street.
- 11) Discussion of Hearings
  - a) Rachel Daigle is requesting a small salon with 2 chairs.
    - i) Peter Bergholtz moved to grant the petition.
    - ii) Lars-Erik Wiberg seconded.
    - iii) It passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Lars-Erik Wiberg voting.
  - b) Richard and Kathleen Gaige
    - i) Lars-Erik Wiberg stated that the addition was well done and the drainage should be about the same.
    - ii) Alan Battistelli stated they could grade the land if needed.
    - iii) Michael Bace moved to approve the petition and Lars-Erik Wiberg seconded.
    - iv) It passed unanimously with Alan Battistelli, John N. Rees, Lars-Erik Wiberg, Frederick Frithsen and Michael Bace voting.
  - c) James and Margaret Foster was continued to October meeting.
  - d) William Merry
    - i) Joyce Fossa said that it doesn't meet the requirements for a Variance.
    - ii) Michael Bace stated it doesn't meet hardship requirement.
    - iii) Joyce Fossa moved to deny the petition without prejudice and Charles W. Christopher seconded.

- iv) The motion passed unanimously with Alan Battistelli, Charles W. Christopher, John N. Rees, Joyce Fossa and Michael Bace voting.
- e) Sprint Spectrum 38 Thatcher Road
  - i) Tacy San Antonio moved to approve and Lars-Erik Wiberg seconded.
  - ii) It passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Lars-Erik Wiberg voting.
- f) Sprint Spectrum 63 Johnson Road
  - i) Tacy San Antonio moved to approve and Frederick Frithsen seconded.
  - ii) The motion passed unanimously with Alan Battistelli (presiding), Peter Bergholtz, Charles W. Christopher, Tacy San Antonio and Frederick Frithsen voting.
- g) Michael Kreuger
  - i) Peter Bergholtz moved to approve and Joyce Fossa seconded.
  - ii) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Joyce Fossa, Frederick Frithsen and Michael Bace voting.
- h) Mary Sullivan
  - i) They worked and successfully improved the plans.
  - ii) John N. Rees made a motion to approve and Peter Bergholtz seconded.
  - iii) The motion passed unanimously with Alan Battistelli, Peter Bergholtz, Charles W. Christopher, John N. Rees and Frederick Frithsen voting.
- 12) Old Business: Update on the Cape Ann Tool Company
  - a) Peter Bergholtz reported to the Board.
  - b) All permits have elapsed for the Cape Ann Tool Company except the machine shop.
  - c) The Building Inspector, Paul Orlando, has issued permits to add windows, roof and weatherproofing. This will be considered a start so the permit doesn't lapse.
  - d) A modification is not a new permit.
- 13) New Business: Discussion of modifying Rule 5.4 regarding the signing of decisions.
  - a) Michael Bace asked that rule 5.4 of the Board's Rules of Procedure be modified so decisions do not need to be signed by individual members.
  - b) Koppelman and Paige the town attorneys will be asked if it is legal for decisions to be signed by just the Chairman of the Board.
  - c) A report will be made to the Board at the October meeting.
- 14) Next Possible Meeting October 28, 2014
- 15) Motion to adjourn made by Charles W. Christopher and seconded by Joyce Fossa. Motion passed unanimously with Alan Battistelli, Tacy D. San Antonio, Peter Bergholtz, Frederick Frithsen, Lars-Erik Wiberg, Joyce Fossa, Charles W. Christopher, John N. Rees and Michael Bace voting  
Adjournment at 9:47 P.M.